

## **AMENDMENT TO THE CLAIMS**

The listing of claims will replace all prior versions, and listings, of claims in the application.

### **Claim 1 (Cancelled)**

Claim 2 (Currently Amended) ~~The A laminated substantially L-shaped packaging restraint according to claim 28 wherein, comprising:~~

~~the first surface is the first surface of a first layer of a compressible, resilient material, the first layer having a major surface defined as first surface of the first layer and an opposite the first major surface defined as second surface of the first layer;~~

~~the second surface is the second surface of a substantially L-shaped second layer of an abrasion-resistant material, the second layer having a major surface defined as first surface of the second layer and an opposite the second major surface defined as first second surface of the second layer, the second surface of the second layer having an attachment member, and~~

~~the second surface of the first layer laminated secured to selected surface portions of the first surface of the second layer to provide the laminated substantially L-shaped packing restraint.~~

### **Claim 3 (Cancelled)**

Claim 4 (Currently Amended) ~~A laminated substantially L-shaped packing The restraint according to claim 2, comprising:~~

~~a first layer of a compressible, resilient material, the first layer having a major surface defined as first surface of the first layer and an opposite major surface defined as second surface of the first layer;~~

~~a second layer of a compressible, resilient material, the second layer having a major surface defined as first surface of the second layer and an opposite major surface defined as second surface of the second layer;~~

~~a substantially L-shaped layer of an abrasion-resistant material, the L-shaped layer having a major surface defined as first surface of the L-shaped layer and an opposite major surface defined as second surface of the L-~~

shaped layer, wherein the L-shaped second layer comprises a first leg and a second leg joined together at a vertex, wherein the vertex comprises a groove in the first surface of the L-shaped second layer and wherein the first layer is a first, first layer segment and further includes a second, first layer segment wherein the first, first layer segment is secured to the first surface of the first leg of the L-shaped second layer and the second, first layer segment is secured to the first surface of the second leg of the L-shaped second layer with the groove in the first surface of the L-shaped second layer between the first, and second, first layer segments layers to provide the laminated substantially L-shaped packing restraint, and

an attachment member on the second surface of the L-shaped layer.

Claim 5 (Cancelled)

Claim 6 (Previously Presented) The restraint according to claim 2, wherein the first and second layers comprise different materials.

Claim 7 (Original) The restraint according to claim 2, wherein the first layer is an inner layer comprising at least one material selected from cork, rubber and foamed or non-foamed polymeric materials.

Claim 8 (Original) The restraint according to claim 7, wherein the polymeric materials are selected from the group consisting of polyethylene, polybutene, polybutadiene, polycarbonate, neoprene, polyisoprene, polyvinyl chloride, polystyrene, polypropylene, polyurethane, polyesters, polyalkanes, and polyalkenes.

Claim 9 (Original) The restraint according to claim 7, wherein the inner layer comprises foamed polyethylene.

Claim 10 (Currently Amended) The restraint according to claim 9, wherein the foamed polyethylene is formed under a pressure of 3 to 9 pounds per square inch (0.2 kilograms/square meter to 0.6 square/square meter).

Claim 11 (Previously Presented) The restraint according to claim 2, wherein the second layer is an outer layer comprising at least one material selected from metal, wood, and foamed or non-foamed polymeric materials.

Claim 12 (Original) The restraint according to claim 11, wherein the polymeric materials are selected from the group consisting of polyethylene, polybutene, polybutadiene, polycarbonate, neoprene, polyisoprene, polyvinyl chloride, polystyrene, polypropylene, polyurethane, polyesters, polyalkanes, and polyalkenes.

Claim 13 (Original) The restraint according to claim 11, wherein the outer layer comprises polyurethane.

Claim 14 (Previously Presented) The restraint according to claim 2, wherein the second layer has a hardness greater than that of the first layer.

Claim 15 (Previously Presented) The restraint according to claim 2, wherein the attachment member includes a slot.

Claim 16 (Currently Amended) A laminated-restraint for packaging glass sheets, the restraint comprising:

a unitary laminated member, comprising:

an outer layer having a first member and a second member defining a vertex, the outer layer having a major surface defined as a first major surface and an opposite major surface defined as a second major surface, the second major surface of the outer layer comprising major surfaces of the first and second members;

a first leg having a major surface defined as an inner surface configured to contact at least a portion of the glass sheets and an opposite major surface defined as an outer surface, the outer surface of the first leg bonded with secured to the second major surface of the first member of the outer layer; a second leg having a major surface defined as an inner surface of the second leg configured to contact at least a portion of the glass sheets and an opposite major

surface defined as an outer surface of the second leg, the outer surface of the second leg bonded with secured to the second major surface of the second member of the outer layer, wherein the inner surfaces of the first and second legs are comprised at least partly of a compressible material, and the first major surface of the outer layer is comprised at least partly of a material having a hardness greater than that of the compressible material, and

an attachment member formed on the first major surface of the outer layer.

**Claim 17 (Previously Presented)** The restraint according to claim 16, wherein the inner surfaces of the first and second legs comprise polyethylene.

**Claim 18 (Currently Amended)** The restraint according to claim 17, wherein the polyethylene is foamed polyethylene formed under a pressure ~~a density of 3 to 9 pounds per square inch (0.2 kilograms/square meter to 0.6 square/square meter)~~.

**Claim 19 (Previously Presented)** The restraint according to claim 16, wherein the first major surface of the outer layer comprises polyurethane.

**Claim 20 (Previously Presented)** The restraint according to claim 16 wherein the attachment member comprises a raised portion having a strap retainer portion.

**Claim 21 (Currently Amended)** A laminated The restraint for packaging glass sheets, the restraint comprising: ~~according to claim 16,~~

an outer layer having a first member and a second member defining a vertex, the outer layer having a major surface defined as a first major surface and an opposite major surface defined as a second major surface, the second major surface of the outer layer comprising major surfaces of the first and second members, wherein the vertex comprises a groove in the second surface of the outer layer;

a first leg having a major surface defined as an inner surface configured to contact at least a portion of the glass sheets and an opposite major surface defined as an outer surface, the outer surface of the first leg secured to the second major surface of the first member of the outer layer; a second leg having a major surface defined as an inner surface of the second leg configured to contact at least a portion of the glass sheets and an opposite major surface defined as an outer surface of the second leg, the outer surface of the second leg secured to the second major surface of the second member of the outer layer, wherein the inner surfaces of the first and second legs are comprised at least partly of a compressible material, and the first major surface of the outer layer is comprised at least partly of a material having a hardness greater than that of the compressible material, and adjacent ends of the first and second legs are spaced from one another, and the vertex comprises a groove in the second surface of the outer layer

an attachment member formed on the first major surface of the outer layer.

Claim 22 (Currently Amended) A laminated restraint for securing a plurality of articles, the restraint comprising:

a unitary laminated member comprising:

an inner layer comprising foamed polyethylene formed under a pressure of 3 pounds to 9 pounds per square inch-(0.2 kilograms/square meter to 0.6 square/square meter) and having a major surface;

an outer layer having a major surface defined as a first major surface and an opposite major surface defined as a second major surface, the major surface of the inner layer bonded with secured to the first major surface of the outer layer, the outer layer comprising polyurethane and having a hardness greater than that of the inner layer; and

at least one attachment member connected to the second major surface of the outer layer and having a slot.

Claim 23 (Currently Amended) A shipping container, comprising:

a base;

    a plurality of articles carried on the base and defining a unit having at least two opposed edges;

        at least one unitary laminated restraint located along the two opposed edges, the restraint comprising:

            an outer layer having a first member and a second member defining a vertex, the outer layer having a major surface defined as a first major surface and an opposite major surface defined as a second major surface, the second major surface of the outer layer comprising major surfaces of the first and second members;

            a first leg having a major surface defined as an inner surface configured to contact at least a portion of the articles and an opposite major surface defined as an outer surface, the outer surface of the first leg bonded with secured to the second major surface of the first member of the outer layer;

            a second leg having a major surface defined as an inner surface of the second leg configured to contact at least a portion of the articles and an opposite major surface defined as an outer surface of the second leg, the outer surface of the second leg bonded with secured to the second major surface of the second member of the outer layer, wherein the first and second legs comprise a compressible, resilient material and the outer layer comprises an abrasion-resistant material; and

            an attachment member on the first major surface of the outer layer, and

            a fastening member engaging the attachment member to secure the articles in the container .

Claim 24 (Previously Presented) The container according to claim 23, wherein the articles are flat, frangible articles and further including a back wall secured to the base wherein edge of the articles is supported on the base with major surfaces of the articles facing the back wall and the fastening member biases the at least one laminated restraint and the articles toward the back wall.

Claim 25 (Original) The container according to claim 24, wherein the articles are flat glass sheets.

Claim 26 (Cancelled)

Claim 27 (Cancelled)

Claim 28 (New) A packaging restraint, comprising:

a unitary laminated substantially L-shaped member having a first compressible, resilient major surface and an opposite abrasion-resistant major surface defined as a second major surface, and an attachment on the second major surface.

Claim 29 (New) The restraint according to claim 28 wherein:

the first surface is the first surface of a first layer of a compressible, resilient material, the first layer having a major surface opposite the first major surface defined as second surface of the first layer;

the second surface is the second surface of a substantially L-shaped second layer of an abrasion-resistant material, the second layer having a major surface opposite the second major surface defined as first surface of the second layer, wherein

the second surface of the first layer is secured to surface portions of the first surface of the second layer according to at least one of the following techniques (a) the first layer and the second layer 24 are separately formed and then laminated together by (1) an adhesive and (2) mechanical fasteners and (b) molding process.

Claim 30 (New) The restraint according to claim 29 wherein an adhesive secures the second surface of the first layer is secured to the surface portions of the first surface of the second layer.

Claim 31 (New) The restraint according to claim 30, wherein the first layer is an inner layer comprising at least one material selected from cork, rubber and foamed or non-foamed polymeric materials.

Claim 32 (New) The restraint according to claim 31, wherein the polymeric materials are selected from the group consisting of polyethylene, polybutene, polybutadiene, polycarbonate, neoprene, polyisoprene, polyvinyl chloride, polystyrene, polypropylene, polyurethane, polyesters, polyalkanes, and polyalkenes.

Claim 33 (New) The restraint according to claim 31, wherein the inner layer comprises foamed polyethylene.

Claim 34 (New) The restraint according to claim 32, wherein the second layer is an outer layer comprising at least one material selected from metal, wood, and foamed or non-foamed polymeric materials.

Claim 35 (New) The restraint according to claim 34, wherein the polymeric materials are selected from the group consisting of polyethylene, polybutene, polybutadiene, polycarbonate, neoprene, polyisoprene, polyvinyl chloride, polystyrene, polypropylene, polyurethane, polyesters, polyalkanes, and polyalkenes.

Claim 36 (New) The restraint according to claim 33, wherein the outer layer comprises non-foamed polyurethane.

Claim 37 (New) The restraint according to claim 36, wherein the second layer has a hardness greater than that of the first layer.

Claim 38 (New) The restraint according to claim 37, wherein the attachment member includes a slot.

Claim 39 (New) The packaging restraint according to claim 29 wherein a mechanical fastener secures the second surface of the first layer to the surface portions of the first surface of the second layer.

Claim 40 (New) The packaging restraint according to claim 39 wherein the mechanical fastener is selected from the group of attachment strips, clamps, pegs and screws.

Claim 41 (New) The restraint according to claim 29 wherein the second surface of the first layer is molded to the surface portions of the first surface of the second layer.

Claim 42 (New) The restraint according to claim 41, wherein the first layer is an inner layer comprising at least one material selected from cork, rubber and foamed or non-foamed polymeric materials.

Claim 43 (New) The restraint according to claim 42, wherein the polymeric materials are selected from the group consisting of polyethylene, polybutene, polybutadiene, polycarbonate, neoprene, polyisoprene, polyvinyl chloride, polystyrene, polypropylene, polyurethane, polyesters, polyalkanes, and polyalkenes.

Claim 44 (New) The restraint according to claim 42, wherein the inner layer comprises foamed polyethylene.

Claim 45 (New) The restraint according to claim 42, wherein the second layer is an outer layer comprising at least one material selected from metal, wood, and foamed or non-foamed polymeric materials.

Claim 46 (New) The restraint according to claim 45, wherein the polymeric materials are selected from the group consisting of polyethylene, polybutene, polybutadiene, polycarbonate, neoprene, polyisoprene, polyvinyl chloride, polystyrene, polypropylene, polyurethane, polyesters, polyalkanes, and polyalkenes.

**Claim 47 (New)** The restraint according to claim 44, wherein the outer layer comprises polyurethane.

**Claim 48 (New)** The restraint according to claim 47, wherein the second layer has a hardness greater than that of the first layer.

## REMARKS

Claims 2, 4 and 6 – 27 are in the instant application. Claims 2, 4, 10, 16, 18 and 21 - 23 are amended to more positively recite various embodiments of applicants' patentably novel packaging restraint. Claims 4 and 21 are objected to as being dependent upon a rejected base claim. Claims 28 – 48 have been added to set for the applicants' patentably novel packaging restraint in varying scope. No claims are allowed.

Claims 2, 4 and 6 – 27 are subject to a restriction requirement. An election of claims 2, 4 and 6 – 25 was made with traverse. The Office Action alleges that the restriction requirement is proper and that the restriction requirement is deemed necessary and proper. In view of the foregoing, claims 26 and 27 are cancelled with traverse as being directed to non-elected claims.

The Office Action states that claims 4 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitation of the base claim and any intervening claims. Applicants to eliminate this issue have amended claim 4 to include the limitations of independent claim 2 on which it was dependent and have amended claim 21 to include the limitations of independent claim 16 on which it was dependent.

Applicants respectfully submit that the amendments to claims 4 and 21 do not add new subject and respectfully request admittance of the amendments to, consideration of, withdrawal of the objection to, and allowance of, claims 4 and 21.

Claims 10, 18, 22 and 24 are objected to because of the following informalities. Regarding claims 10, 18 and 22, the Office Action alleges that the phase "(0.2 kilograms/square meter to 0.6 square/square meter)" needs to be deleted because the range of 3 to 9 lb./in<sup>2</sup> is equivalent to 0.2 to 0.6 kg/m<sup>2</sup> and that there is no need to include both ranges in the claims. Applicants respectfully traverse the objection to claims 10, 18 and 22; however, to eliminate this issues claims 10, 18 and 22 have each been amended by deleting "(0.2 kilograms/square meter to 0.6 square/square meter)."

Applicants respectfully submit that the amendments to claims 10, 18 and 22 do not add new subject matter and respectfully request admittance of the amendments to, consideration of, and withdrawal of the objection to, claims 10, 18 and 22.

Regarding claim 24, the Office Action alleges that in line 5 of claim 24 the term "the" before --at least-- needs to be removed to avoid grammatical errors. Applicants respectfully submit that the definite article "the" before --at least-- is proper and needed to reference the "at least one laminated restraint" recited in claim 23 on which claim 24 is dependent. Without the definite article "the" recited before --at least one restraint-- in claim 24, the recitation of the term --at least one restraint-- in claim 24 can be read to include another --at least one restraint--.

Based on the foregoing, applicants respectfully request withdrawal of the objection to claim 24.

Claims 2, 6, 7, 11, 14 – 16, 20 and 23 – 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Moehring U.S.P.N. 3,938,660 (hereinafter also referred to as "Moehring"). Applicants respectfully traverse the rejection of claims 2, 6, 7, 11, 14 – 16, 20 and 23 – 25 under 35 U.S.C. 102(b) as being anticipated by Moehring; however, to eliminate this issue, claim 2 having claims 6, 7, 11, 14 and 15 dependent thereon is amended to be dependent on new claim 28; claim 16 having claim 20 dependent thereon is amended, and claim 23 having claims 24 and 25 dependent thereon is amended.

New claim 28 recites a packaging restraint includes a unitary laminated substantially L-shaped member having, among other things a first compressible, resilient major surface and an opposite abrasion-resistant major surface defined as a second major surface, and an attachment on the second major surface. Amended claim 2, dependent on claim 28 recites that the first surface is the first surface of a first layer of a compressible, resilient material, the first layer having a major surface opposite the first major surface defined as second surface of the first layer and the second surface is the second surface of a substantially L-shaped second layer of an abrasion-resistant material, the second layer having a major surface opposite the second major surface defined as first surface of the second layer. The

second surface of the first layer is laminated to selected surface portions of the first surface of the second layer to provide the laminated substantially L-shaped packing restraint. Independent claims 16 and 23 each recite, among other things, in one form or another, a laminated restraint having major surfaces of the outer layer and the inner layer bonded together. The outer layer is an abrasive-resistant material (claim 2) or has a hardness greater than the inner layer (claims 16 and 23). The outer layer should be sufficiently abrasion-resistant to protect the inner layer from damage or abrasion during shipping and/or storage and to withstand contact by a fastening member, such as a banding strap, without the banding strap cutting through or severely damaging the outer layer (see page 7, lines 21 – 26, of the specification). The term “hardness” as used refers to the ability of a material to resist penetration or abrasion (see page 7, lines 11 – 13, of the specification).

Support for new claim 28 and the amendments to claims 2, 16 and 23 is found, among other places, in the drawing, the claims on file and on page 8, lines 6 – 23. Based on the foregoing, applicants respectfully request admittance of new claim 28 and the amendments to claims 2, 16 and 23, and consideration thereof.

The Advisory Action alleges that Moehring teaches a laminated L-shaped restraint comprising a L-shaped inner layer pad 50 made of a plastic material and an elongated rigid tubular runner 51 (identified as 50 in the Advisory Action) of wood which extends along the pad 50 (column 4, lines 45 - 50, Figs. 4 and 6. The Advisory Action continues by alleging that the pad on Moehring corresponds to the claimed inner layer whereas the tubular runner corresponds to the claimed outer layer and it is apparent that the wood outer layer is harder than the plastic inner layer.

Applicants respectfully submit that the Office Action and the Adversary Action fail to identify any teachings in Moehring that the pad is secured to the runner to provide the claimed laminated restraint. Applicants acknowledge that the banding of Moehring secures the runner on the pad after the shipping rack is loaded; however the runner and the pad are not laminated together; they are not one part; they are two discreet parts held together by banding. Applicants support their position by the failure of Moehring to state that the runner and pad are one part and the failure of

Moehring to show in the drawing that the runner and pad are one part. More particularly, there is no designation in Figs. 4 and 5 that the runner and pad are one part.

To more positively recite this feature of Applicants' patentably novel invention, Applicants have added new claim 28, and amended claims 2, 16 and 23. More particularly, claim 28 recites, among other things, a packaging restraint including a unitary laminated substantially L-shaped member; claim 2 dependent on claim 28 recites, among other things, that the surfaces are laminated together, and claims 16 and 23 each recite, among other things that the surfaces of one layer are bonded with the surface of the other layer.

There is no disclosure in Moehring of a unitary laminated restraint (claims 2 and 28) or a restraint having a major surface of an outer layer bonded with a major surface of an inner layer (claims 16 and 23) to provide a laminated restraint having a compressible, resilient major surface and an opposite abrasion-resistant surface. Applicants' laminated restraint provides for a compressible surface to engage the articles to be shipped, e.g. glass sheets and a harder or abrasive-resistant outer layer to support the banding used to maintain the sheets as a unitized pack.

Moehring's failure to disclose that the runner and pad are one part is a failure of Moehring to anticipate applicants' patentable novel packing restraint recited in claims 2, 6, 7, 11, 14 – 16, 20, 23 – 25 and 28.

Based on the foregoing, applicants respectfully request withdrawal of the rejection of claims 2, 6, 7, 11, 14 - 16 and 23 – 25 under 35 U.S.C. 102(b) as being anticipated by Moehring.

Claims 8 – 10, 12, 13, 17 – 19, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moehring in view of Maurice U.S.P.N. 4,851,286 (hereinafter also referred to as "Maurice"). Applicants respectfully traverse the rejection of claims 8 – 10, 12, 13, 17 – 19, and 22 under 35 U.S.C. 103(a) as being unpatentable over Moehring in view of Maurice and request reconsideration thereof. Claims 8 – 10, 12 and 13 are dependent on claim 2, which is dependent on claim 28; claims 17 – 19 are dependent on claim 16, and claim 22 is an independent claim.

Claims 2, 16 and 28, and Moehring were discussed above.

Claim 22 has been amended to more positively recite applicants' patentably novel packaging restraint. Amended claim 22 recites, among other things, a unitary laminated restraint having an inner layer bonded with an outer layer. The outer layer having a hardness greater than the inner layer. Support for the amendment to claim 22 is found, among other places, in the drawing, the claims in the application and on page 8 lines 6 – 23 of the specification. Based on the foregoing, applicants respectfully request admittance and consideration of claim 22 .

Applicants respectfully submit that an artisan skilled in the art would not combine the disclosures of Moehring and Maurice because Moehring relates to using banding and pads to provide a unitized pack of glass sheets, whereas Maurice relates to reducing the rate of deceleration to minimize or prevent damages to the articles (see column 1, lines 47 – 49, of Maurice). Maurice discloses that the pads are used as a cushioning element interposed between an inner and outer carton or between rigid plates of a pallet base (column 4, lines 14 – 20, of Maurice). There is no disclosure in Maurice that the foam pads can be used with the banding system of Moehring to unitize the sheets. Therefore, one skilled in the art would not combine the disclosures of Moehring and Maurice.

For the sake of discussion only and without making any admissions that an artisan would combine Moehring and Maurice, applicants respectfully submit that the combined disclosure of Moehring and Maurice would not render applicants' packaging restraint recited in claims 8 – 10, 12, 13, 17 – 19 and 22 obvious. More particularly, as discussed above there is no disclosure in Moehring of a unitary laminated packing restraint having an inner layer bonded with an outer layer with the outer layer harder than the inner layer and/or the outer layer made of an abrasive-restraint material and the outer layer having an attachment. Maurice does not cure this defect of Moehring. More particularly, combining Moehring and Maurice would provide a cushioning element made two foamed polymeric materials having different densities. There is no discussion in Maurice that the cushioning element can have an attachment. As discussed above Maurice disclosed that his cushioning element is used between boxes or between plates of a pallet base.

Using the cushioning element of Maurice for the pad of Moehring would not provide a unitized resistant as recited in Applicants' claims.

Based on the foregoing, Applicants respectfully request withdrawal of the rejection of Claims 8 – 10, 12, 13, 17 – 19 and 22 under 35 U.S.C. 103(a) as being unpatentable over Moehring in view of Maurice and request allowance of claims 2, 6 – 20, 22 – 25 and 28.

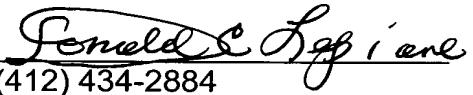
Applicants by this amendment has added new claims 29 – 48 dependent on claim 28 discussed above. Support for claims 29 – 48 is found, among other places, in the drawing, the claims on file and on page 8, lines 6 – 23 of the specification. The argument put for the to patentably distinguish claim 28 over the art is applicable, among others, to patentably distinguish claims 29 – 48 over similar art. Further claim 29 on which claims 30 – 48 are dependent recites, among other things, that the second surface of the first layer is secured to surface portions of the first surface of the second layer according to at least one of the following techniques (a) the first layer and the second layer 24 are separately formed and then laminated together by (1) an adhesive and (2) mechanical fasteners and (b) molding process.

Based on the foregoing Applicants respectfully request admittance, consideration, and allowance, of claims 29 – 48.

This amendment represents a sincere effort to place the application in condition for allowance. In the event issues remain, the Examiner is invited to call the undersigned to discuss those issues before further action is taken on the case.

Respectfully submitted,

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